

### Remarks

In the Office Action, the examiner rejected claims 13, 16, 25 and 26 under 35 USC 112. However the examiner does not mention a defect with respect to claim 16. Claims 13, 25 and 26 have been corrected to eliminate the narrow range.

On page 3 of the Office Action the examiner rejects claims 13 to 25 under 35 USC 103 as being unpatentable over Mariotti et al (Mariotti) in view of Diehl et al (Diehl), as evidenced by Kolarik. Mariotti fails to specify molecular weights, the amount of styrene and the ratio between the high molecular components and the medium molecular weight components. To correct these short comings, the examiner relies on Diehl. Diehl relates to styrene – isoprene – styrene (S-I-S) block copolymers. However with the amendments to claims 13, 25 and 26, the high molecular weight components are limited to polybutadiene. The teachings of Diehl do not apply to polybutadiene. Especially the styrene content of S-I-S block copolymers is particularly inapplicable. Lastly, the properties of improved cohesiveness and heat resistance are not meaningful properties for foam compositions. It would not be obvious to one skilled in the art to combine a reference that is not related to foam compositions with one that is. The uses of styrene block copolymers are numerous and the desired properties are different but not applicable to one another. A conclusion that one skilled in the art would expect the same properties is a fiction since Mariotti and Diehl do not both pertain to foam compositions.

Claims 13 – 25 are rejected on page 9 of the Office Action under 35 USC 103 as unpatentable over Mariotti in view of Nakagawa et al (Nakagawa) as evidence by Kolarik. Mariotti fails to specify molecular weights, the amount of styrene and the ratio between the high molecular components and the medium molecular weight components. To correct these short comings, the examiner relies on Nakagawa. However this reference relates to polyphenylene ether compositions. Therefore the examiner assumes that the high and low molecular block copolymers of Nakagawa would yield “excellent surface appearance, high impact strength and decrease in generation of foreign matter at the time of production in the “polypropylene”

composition of Mariotti. However there is no basis for this. To suggest that a block copolymer is compatible with any type of polymer is nonsense.

On page 12 of the Office Action, the examiner rejected claims 13 – 25 under 35 USC 103 as being unpatentable over Himes et al (Himes) in view of Leicht and Mariotti. There are many different and diverse uses of styrene block copolymers (even those that are trademarked – Kraton) and those skilled in the art recognize this. Himes pertains to copolymer blends with improved oil absorption resistance. The examiner seeks to combine this reference with Leicht and Mariotti which are concerned with foam compositions. There is no way one skilled in the art can modify Himes without destroying its use as a copolymer blend that has oil absorption resistance. None of the uses in col.3 of Himes relates to foam and in fact foam would actually increase oil absorption – the opposite of what Himes seeks to improve.

Claims 13 – 25 are rejected on page 18 of the Office Action under 35 USC 103 as unpatentable over Himes in view of Burnell and Mariotti. Himes pertains to copolymer blends with improved oil absorption resistance. The examiner seeks to combine this reference with Burnell and Mariotti which are concerned with foam compositions. There is no way one skilled in the art can modify Himes without destroying its use as a copolymer blend that has oil absorption resistance. Further, not all products under the Kraton trademark have the same or similar properties. This is also correct for the products under the Moplen trademark. Yet the examiner continues to state it is a “substitution of an equivalent”. This is not the meaning of the case cited by the examiner. None of the uses in col.3 of Himes relates to foam and in fact foam would actually increase oil absorption – the opposite of what Himes seeks to improve.

On page 22 of the Office Action, the examiner rejects claim 26 under 35 USC 103 as unpatentable over Burnell in view of Himes. Burnell relates to foam compositions. The uses set forth in Himes are in column 3. None of the uses is for foam compositions. Burnell cannot be combined with Himes as they are non-analogous art. The fact that the examiner asserts that Himes describes a blend of Kraton G, oil and a polyolefin is not a reason to combine the references because their use is not the same. Further there is no hint that substituting the styrene

block copolymers of Himes for those in Burnell will be a foamable composition – except by using hindsight with the present disclosure.

Claims 13 – 25 are rejected under 35 USC 103 as unpatentable over Gergen in view of Burnell and Mariotti. Gergen is not directed to a foam composition. Employing the foam compositions of Burnell and Mariotti in the kink-resistant polymeric tubing of Gergen, if it can even be done, would certainly produce a very flexible tube that is no longer kink-resistant. Exactly how a foam composition could be used in Gergen is not spelled out in the rejection and it certainly challenges the mind. These are 2 unrelated art areas. The mere fact that Gergen had a styrene block copolymer composition of one of the components of claim 13 of the present invention does not make it combinable with foam composition art.

**Conclusion**

In view of the amendments to the claims and in light of these remarks it is submitted that the present claims are in condition for allowance.

Respectfully submitted,

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